



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 17, 1995

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-129

Dear Ms. Nguyen:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30902.

The City of Houston (the "city") received a request from a city police officer for his "grievance file." You state that the city has provided the requestor with all of the requested documents except for "certain inter-office memoranda." You have submitted the documents at issue to this office for review. The requestor has been suspended from the Houston Police Department (the "department") and has appealed that suspension to the city's civil service commission pursuant to the provisions of Chapter 143 of the Local Government Code. Brian J. Begle, the attorney representing the city in that appeal, sent this office an affidavit stating that the documents at issue are relevant to the appeal. You contend that these letters are excepted from disclosure pursuant to section 552.103(a).

Our review of the documents at issue indicates that section 143.089(a)(3) of the Local Government Code is applicable to the documents. Section 143.089(a)(3) mandates that documents *relating to* "the periodic evaluation of the fire fighter or police officer by a supervisor" must be placed in a police officer's civil service file. Section 143.089(e) states that a police officer "is entitled, on request, to a copy of any letter, memorandum, or document placed in the person's personnel file." Section 143.089(e) of the Local Government Code thus lays out a system of mandatory access to civil service records that prevails over the section 552.103(a) exception from disclosure. *See* Open Records Decision No. 598 (1991) at 3-4 (provisions of Gov't Code ch. 552 do not prevail over laws granting special right of access to records).

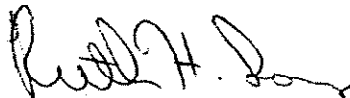
Mr. Begle states that the documents are "internal Police Department memoranda." Section 143.089(g) of the Local Government Code allows for the maintenance of a separate departmental file in addition to the civil service file provided for in section 143.089(a)(3). This separate file is for the department's own internal use:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

In *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied), the court determined that information in the department's internal personnel file is confidential and excepted from disclosure. If the department receives a request for information in the internal file the requestor must be referred to the civil service director or his designee. 851 S.W.2d 946. However, since the requested documents should be maintained in the officer's civil service file pursuant to section 143.089(a)(3), the documents must be released to the officer in accordance with the mandatory access provision of section 143.089(e).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/KHG/rho

Ref.: ID# 30902

Enclosures: Submitted documents